



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TANG CAPITAL PARTNERS, LP.,

Plaintiff,

- against -

BRC Inc.,

Defendant.  
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22-CV-3476 (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves the discovery disputes raised at Dkt. 94 and 95. The Court has considered all submissions. (See Dkt. 102, 103, 108, 110.) The letter motions are granted in part and denied in part as follows.

1. Depositions of co-CEOs Hafer and Davin (Dkt. 94): The application is denied without prejudice. After other discovery of BRC witnesses is taken, Tang may renew its request if there are good faith grounds to do so. If BRC opposes at that time, it will need to file appropriate declarations from both Mr. Hafer and Mr. Davin concerning the extent to which they do or do not have unique knowledge.

2. BRC Communications With Third Parties (Dkt. 95): The application is granted. BRC shall produce its communications with third-party subpoena recipients. The correspondence is relevant and responsive, and there is little to no burden in producing it.

3. BRC Privilege Log – Third Party Communications (Dkt. 95): The facts necessary to resolve the issues raised are not sufficiently developed. By November 2, 2023, counsel shall meet and confer to further discuss the specific issues raised as to whether or not communications with the third parties were indispensable to legal advice

or otherwise subject to protection based on the relationships between the parties to the communications. If any disputes remain, then by November 9, 2023, BRC shall file a letter of no more than five pages identifying the specific documents at issue (which Tang will have to identify) and defending the asserted privilege or protection and including supporting declarations or affidavits. Tang shall file its response of no more than seven pages by November 16, 2023. BRC may file a reply of no more than three pages by November 20, 2023. The Court urges the parties to thoroughly review and resolve as many of the disputes as they can to narrow what is truly at issue or to forestall the need for further assistance from the Court. To be clear, “meet and confer” does not mean just a single discussion. An iterative process may be warranted to narrow or eliminate the issues and for the parties to exchange factual or legal support for their positions.

4. BRC Privilege Log – 117 Documents (Dkt. 95): The application is denied in part and granted in part. Descriptions that include subject identifiers such as “Regarding Form S-1 (Entry 1)” and “Regarding the business combination” are sufficient. Any listed document that does not include a subject matter description in at least one of the File Name, Email Subject, or Privilege Assertion columns must be supplemented to include them. The application regarding separately logging attachments is denied without prejudice as moot as BRC has represented that it has separately logged attachments.

SO ORDERED.



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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated:     October 24, 2023  
           New York, New York